

JS 44 (Rev. 08/18)

### CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Francois, Willy

(b) County of Residence of First Listed Plaintiff Philadelphia County  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Dean Vassor, Esq., Vassor Law Firm, LLC, 6022 Castor Ave., Philadelphia, PA 19149; 215-437-7949

**DEFENDANTS:**

U.S. Department of Homeland Security; U.S. Immigration and Customs Enforcement; Jamal L. Jamison, Warden, Federal Detention Center-Philadelphia; David O'Neill, Field Office Director, ICE Enforcement and

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input checked="" type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 2241

Brief description of cause:  
Unlawful detention

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/25/2025

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

\_\_\_\_\_ )  
**WILLY FRANCOIS,** )  
) )  
*Petitioner,* )  
) )  
v. )  
) )  
**KRISTI NOEM,** Secretary )  
of the U.S. Department of Homeland )  
Security, in her official capacity; )  
**U.S. DEPARTMENT OF HOMELAND )  
SECURITY; PAMELA BONDI** )  
Attorney General of the United States, )  
in her official capacity; TODD M. )  
LYONS, Acting Director, U.S. Immigration )  
and Customs Enforcement, in his official )  
capacity; **DAVID O’NEILL,** Director of )  
the Philadelphia Field Office of U.S. )  
Immigration and Customs Enforcement, in )  
His official capacity; and **JAMAL L. )  
JAMISON,** in his official capacity )  
) )  
*Respondents.* )  
\_\_\_\_\_ )

Case No. 2:25-cv-07334

**PETITION FOR WRIT OF HABEAS  
CORPUS PURSUANT TO 28 U.S.C.  
§ 2241**

**ORAL ARGUMENT REQUESTED**

**PETITION FOR WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

**EMERGENCY FILING TO PRESERVE JURISDICTION**

## EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

Petitioner Willy Francois, A# XXXXXXXXXX, respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, as follows:

### I. INTRODUCTION

1. This Petition challenges Petitioner's unlawful civil detention by Immigration and Customs Enforcement ("ICE") following his affirmative parole into the United States pursuant to INA § 212(d)(5), 8 U.S.C. § 1182(d)(5). *See Exhibit A.*
2. Petitioner was apprehended by the Department of Homeland Security ("DHS") in April 2022 and thereafter affirmatively paroled into the United States under DHS's discretionary parole authority. *Id.* Regardless of the manner of entry, DHS's discretionary decision to grant parole terminated any detention authority under 8 U.S.C. § 1225(b). *See Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at \*6–7 (E.D. Pa. Nov. 14, 2025).
3. Following his parole, Petitioner affirmatively sought additional humanitarian immigration relief, including by applying for Temporary Protected Status ("TPS") and filing an affirmative application for asylum with U.S. Citizenship

and Immigration Services, underscoring DHS's recognition that Petitioner was properly present in the United States and eligible to pursue relief through established statutory processes.

4. Although Petitioner's parole later expired, expiration of parole does not retroactively negate DHS's prior discretionary parole decision or revive mandatory detention authority under § 1225(b). Once DHS paroles a noncitizen into the United States, any subsequent detention authority, if it exists, arises under 8 U.S.C. § 1226(a) and requires an individualized bond hearing. *Rios Porras*, slip op. at 4–5; *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at \*2–3 (E.D. Pa. Nov. 18, 2025).
5. Nonetheless, at a routine ICE check-in years later, ICE detained Petitioner without identifying any lawful statutory basis for his detention and without providing a bond hearing, in violation of the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

## **II. PARTIES**

6. Petitioner Willy Francois is a noncitizen currently detained by Respondents within the Eastern District of Pennsylvania. He is detained pursuant to actions taken by Immigration and Customs Enforcement ("ICE") following his

appearance at a routine ICE check-in, despite having been previously paroled into the United States pursuant to INA § 212(d)(5).

7. Respondent Jamal L. Jamison is named in his official capacity as the Warden of the Federal Detention Center–Philadelphia (“FDC Philadelphia”), located in Philadelphia, Pennsylvania. Respondent Jamison has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens and is a proper respondent to this habeas petition. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).
8. Respondent David O’Neill is named in his official capacity as the Philadelphia Field Office Director for ICE Enforcement and Removal Operations (“ERO”). In this capacity, Respondent O’Neill is responsible for the administration and management of ICE detention and enforcement operations within the Eastern District of Pennsylvania and exercises legal control over Petitioner’s custody.
9. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons is responsible for the administration and enforcement of federal immigration laws, including detention determinations, and is a legal custodian of Petitioner. Respondent Lyons’s office is located at 500 12th Street, S.W., Washington, D.C. 20536.

10. Respondent Department of Homeland Security (“DHS”) is the federal agency responsible for implementing and enforcing the Immigration and Nationality Act (“INA”), including the detention, parole, and removal of noncitizens. DHS exercises ultimate authority over ICE and Petitioner’s detention.
11. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security (“DHS”). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws and for Petitioner’s detention. Secretary Noem is the ultimate legal custodian of Petitioner. Her office is located at the U.S. Department of Homeland Security, Washington, D.C. 20528.

### **III. JURISDICTION AND VENUE**

12. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.
13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

14. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency's officers are sued in their official capacities. *See* 5 U.S.C. § 702.
15. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

#### **IV. STATEMENT OF FACTS**

16. Petitioner Willy Francois, A#  is a noncitizen from Haiti, who is in the custody of the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), and is currently detained at the Federal Detention Center ("FDC") in Philadelphia, Pennsylvania.
17. Petitioner was affirmatively paroled into the United States on April 27, 2022, pursuant to INA § 212(d)(5), 8 U.S.C. § 1182(d)(5), following his apprehension by Customs and Border Protection ("CBP") near the border. *See Exhibit A.*
18. DHS issued Petitioner a parole document stating "*Paroled until June 28, 2022; purpose: INA § 212(d)(5).*" *Id.*
19. After receiving humanitarian parole, Petitioner fully complied with all conditions of parole, including reporting as directed, and sought other forms of humanitarian relief.
20. In 2022, Petitioner filed an affirmative application for asylum with U.S. Citizenship and Immigration Services ("USCIS"). USCIS issued a

receipt/notice dated September 16, 2022, confirming acceptance of his asylum application, which remains pending. *See Exhibit B.*

21. Petitioner was also granted Temporary Protected Status (“TPS”) for Haiti for an initial 18-month period. Although Petitioner timely re-applied for TPS, that re-registration was later denied, and his TPS has since expired.

22. After years of adherence to immigration conditions and establishing a presence in the community, Petitioner appeared for a routine ICE check-in and was abruptly detained without prior notice, without a bond hearing, and without any contemporaneous explanation of the statutory basis for this action.

23. To date, ICE has failed to provide Petitioner with a formal custody determination identifying the specific statute authorizing the current detention, confirmation that removal proceedings have been properly initiated before the Immigration Court, or the required opportunity for a bond hearing.

24. Although DHS may have issued a Notice to Appear, Petitioner’s removal case is not pending before the Immigration Court. Removal proceedings commence only when DHS files the charging document with EOIR, and until that occurs, the Immigration Judge lacks jurisdiction. *See* 8 C.F.R. § 1003.14(a); *Pereira v. Sessions*, 585 U.S. 210, 215–16 (2018). DHS has not filed any charging document with EOIR in Petitioner’s case as of December 24, 2025.

25. To the extent ICE is asserting detention authority under 8 U.S.C. § 1225(b), as it has repeatedly done in materially identical cases throughout this District, such detention is unlawful because DHS already exercised parole authority under INA § 212(d)(5).

26. Because Petitioner is being detained without clear statutory authorization and in violation of the Fifth Amendment's Due Process Clause, Petitioner requests that this Court issue the writ of habeas corpus and order Petitioner's immediate release, or at minimum, an individualized bond hearing under 8 U.S.C. § 1226(a).

## **V. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

27. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at \*2 (M.D. Pa. Aug. 2020) (“[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.”).

28. In making that decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

29. Moreover, the exhaustion “doctrine is not without exception.” *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). “Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question.” *Id.* at 666-67.

30. Exhaustion is not required here because Petitioner has no pending removal proceedings and therefore no administrative forum in which to challenge his detention. Although DHS may have issued a Notice to Appear, removal proceedings do not commence unless and until the charging document is filed with the Immigration Court. 8 C.F.R. § 1003.14(a); *Pereira v. Sessions*, 585 U.S. at 215–16. Because DHS has not filed the charging document with EOIR, an Immigration Judge lacks jurisdiction to conduct a bond hearing or provide any relief, rendering administrative exhaustion futile.

31. Further, the BIA does not have jurisdiction to adjudicate constitutional issues.

*Qatanani v. Att’y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (citation omitted). Therefore, any administrative proceedings would be futile because petitioner raises a constitutional due process claim. *Qatanani*, 144 F.4th at 500.

## **VI. LEGAL FRAMEWORK**

### **A. PAROLE UNDER INA § 212(D)(5)**

32. DHS may parole a noncitizen into the United States “for urgent humanitarian reasons or significant public benefit.” INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A).

33. When DHS grants parole, the individual is lawfully present pursuant to parole, even if not formally “admitted.” *Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958).

34. Parole is a deliberate, discretionary act, and once granted, it carries legal consequences for detention authority. *Id.*; *Rios Porras*, slip op. at 3–4.

### **B. 8 U.S.C. § 1225(B) DOES NOT APPLY AFTER PAROLE**

35. Section 1225(b) applies only to individuals who are seeking admission and have not been admitted or paroled. 8 U.S.C. § 1225(b).

36. Once DHS paroles a noncitizen into the United States, § 1225(b) no longer governs detention authority. DHS may not later treat the same individual as an “arriving alien” subject to mandatory detention. *Rios Porras*, slip op. at 4–5.

37. Courts in this District have repeatedly rejected the Government’s attempt to re-invoke § 1225(b) after parole. *See, e.g., Kashranov v. Jamison*, 2025 WL 3188399, at \*5–6 (E.D. Pa. Nov. 14, 2025); *Ndiaye v. Jamison*, 2025 WL 3229307, at \*3–4 (E.D. Pa. Nov. 19, 2025).

## **VII. ARGUMENT**

### **A. PETITIONER’S DETENTION VIOLATES THE IMMIGRATION AND NATIONALITY ACT**

38. DHS’s detention of Petitioner under 8 U.S.C. § 1225(b) is unlawful because DHS already exercised its parole authority under INA § 212(d)(5), 8 U.S.C. § 1182(d)(5), thereby removing Petitioner from the statutory class governed by § 1225(b).

39. Section 1225(b) authorizes mandatory detention only for noncitizens who are seeking admission and who have not been admitted or paroled into the United States. 8 U.S.C. § 1225(b). By contrast, § 212(d)(5) permits DHS, in its discretion, to parole a noncitizen into the United States for urgent humanitarian reasons or significant public benefit. 8 U.S.C. § 1182(d)(5)(A). Once DHS

affirmatively grants parole, the statutory predicate for detention under § 1225(b) no longer exists.

40. As the Eastern District of Pennsylvania recently explained in a materially identical case, DHS “cannot parole an individual into the United States and later claim that the same individual is ‘present without admission or parole.’” *Rios Porras v. O’Neill*, No. 25-6801, slip op. at 4 (E.D. Pa. Dec. 22, 2025). In *Rios Porras*, DHS apprehended the petitioner at the border, released him on humanitarian parole, required periodic ICE reporting, and then detained him years later at a routine check-in while asserting mandatory detention authority under § 1225(b). The court squarely rejected that theory, holding that parole is the legally operative act for detention purposes. *Id.* at 3–5.

41. Once parole is granted, detention authority—if any—arises under 8 U.S.C. § 1226(a), which governs the discretionary detention of noncitizens pending a decision on removal and requires an individualized bond hearing. *Id.*; *Demirel v. Fed. Det. Ctr. Phila.*, 2025 WL 3218243, at \*2–3 (E.D. Pa. Nov. 18, 2025). Section 1226(a) does not authorize categorical or mandatory detention; rather, it permits release on bond or conditional parole after individualized consideration. 8 U.S.C. § 1226(a)(2).

42. Here, DHS has provided Petitioner with no bond hearing at all, despite having affirmatively paroled him into the United States and despite the absence of any

removal proceedings. Detention without a bond hearing under these circumstances exceeds DHS's statutory authority and violates the plain language of the INA. See *Rios Porras*, slip op. at 4–5; *Demirel*, 2025 WL 3218243, at \*3.

## **B. INITIAL BORDER APPREHENSION IS LEGALLY IRRELEVANT**

43. The Government frequently argues that initial apprehension at or near the border permanently subjects a noncitizen to mandatory detention under § 1225(b), even after DHS has exercised parole authority. Courts have uniformly rejected that argument.
44. As multiple courts in this District have explained, initial apprehension is not the legally operative event for detention purposes. Rather, the operative event is DHS's affirmative decision to parole the individual into the United States. *Rios Porras*, slip op. at 3–4. Once DHS chooses parole, it cannot later erase the legal consequences of that decision by invoking a statute that applies only to individuals who have not been admitted or paroled. *Id.*
45. The Eastern District has repeatedly emphasized that DHS may not “toggle” between detention statutes based on enforcement preference. See *Kashranov v. Jamison*, 2025 WL 3188399, at \*6 (E.D. Pa. Nov. 14, 2025) (“The government’s attempt to resurrect § 1225(b) after parole finds no support in the statutory text.”). In *Kashranov*, as here, DHS argued that the petitioner’s

original border encounter justified continued mandatory detention notwithstanding parole. The court rejected that position, holding that once parole is granted, § 1225(b) no longer applies “regardless of where or how the individual was first encountered.” *Id.*

46. Accordingly, the fact that Petitioner was initially apprehended at the border in 2022 is legally irrelevant. DHS’s own discretionary act of parole governs the applicable detention framework, and that framework does not permit mandatory detention without a bond hearing.

### **C. PETITIONER’S CONTINUED DETENTION VIOLATES THE FIFTH AMENDMENT**

#### **i. Procedural Due Process**

47. The Fifth Amendment’s Due Process Clause protects all “persons” within the United States—including noncitizens—from deprivation of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint “lies at the heart of the liberty that the Due Process Clause protects.” *Zadvydas*, 533 U.S. at 690.

48. At minimum, procedural due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner before liberty is restrained. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In the immigration detention context, that principle is typically satisfied through an individualized bond hearing where the government must justify continued detention.

49. Petitioner received no such process. After being paroled into the United States and complying with all reporting requirements for years, he was detained at a routine ICE check-in without notice, without explanation, and without any hearing. DHS provided no individualized determination that detention was necessary and no opportunity for Petitioner to contest his confinement.

50. Courts in this District have found materially identical conduct to be procedurally unconstitutional. See *Rios Porras*, slip op. at 4–5 (finding detention without a bond hearing after parole violated due process). The absence of any hearing or individualized assessment creates a substantial risk of erroneous deprivation of liberty and fails even the most basic procedural requirements of the Fifth Amendment.

51. The due process violation is compounded by the absence of any administrative forum. Because DHS has not filed a charging document with EOIR, Petitioner has no access to an Immigration Judge and no mechanism to seek release on bond, leaving habeas corpus as his only avenue for judicial review.

#### **i. Substantive Due Process**

52. Substantive due process imposes an independent constraint on civil detention. Even where procedures are provided, detention must bear a reasonable relation to a legitimate governmental purpose and may not be arbitrary or

punitive. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

53. In the immigration context, the Supreme Court has recognized only two legitimate purposes for civil detention: preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 528 (2003). Detention that does not reasonably further either purpose violates substantive due process.

54. Petitioner's detention serves neither. DHS itself determined that Petitioner was suitable for parole, permitted him to live in the community for years, and required only routine check-ins. Petitioner complied fully, appearing as directed—conduct that demonstrates compliance, not flight risk. There has been no individualized finding, or even allegation, that Petitioner poses a danger to the community.

55. Detention imposed under these circumstances is arbitrary. As the Supreme Court has cautioned, justification based on flight risk “is weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Moreover, detention imposed without statutory authorization is itself substantively unconstitutional. *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005) (holding that detention beyond statutory limits violates due process).

56. Because DHS lacks statutory authority to detain a paroled individual without a bond hearing, Petitioner's continued confinement is not merely excessive—it is unlawful and unconstitutional.

**D. IN THE ALTERNATIVE, PETITIONER IS ENTITLED TO A BOND HEARING UNDER *MALDONADO BAUTISTA***

57. Even if this Court were to conclude that Petitioner is detained under 8 U.S.C. § 1225(b), which he is not, his continued detention without a bond hearing is independently unlawful under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.).

58. On November 20, 2025, the United States District Court for the Central District of California granted partial summary judgment holding that noncitizens detained under circumstances identical to Petitioner's are properly detained under 8 U.S.C. § 1226(a) and therefore may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the court certified a nationwide Bond Eligible Class and expressly extended that declaratory judgment to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025).

59. Critically, on December 18, 2025, the court entered final judgment after finding that immigration courts and the Department of Homeland Security

were continuing to deny bond hearings and disregard the Court’s declaratory relief. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 8–11 (C.D. Cal. Dec. 18, 2025) (entering final judgment pursuant to Fed. R. Civ. P. 54(b) based on evidence of agency noncompliance). The court expressly recognized that immigration judges had been instructed to continue following *Matter of Yajure Hurtado* despite the Court’s ruling, and that such noncompliance created exigent circumstances and ongoing irreparable harm to detained class members. *Id.* at 8–9.

60. The *Maldonado Bautista* declaratory judgment, now a final judgment, holds that application of mandatory detention under § 1225(b)(2) to Bond Eligible Class members violates the Immigration and Nationality Act, and that such individuals are detained under § 1226(a) as a matter of law. *Maldonado Bautista*, 2025 WL 3289861, at \*11. That judgment has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

61. Courts in the Eastern District of Pennsylvania have repeatedly relied on *Maldonado Bautista* in ordering release or bond hearings for similarly situated petitioners. See, e.g., *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at \*5 (E.D. Pa. Nov. 18, 2025); *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528 (E.D. Pa. Dec. 9, 2025); *Ndiaye v. Jamison*, No. 25-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025).

62. Accordingly, even under Respondents' erroneous theory of detention, Petitioner is entitled to immediate release, or at minimum, an individualized bond hearing under 8 U.S.C. § 1226(a) within seven days.

63. Where detention exceeds statutory or constitutional limits, habeas relief is appropriate. *Zadvydas*, 533 U.S. at 699–701.

64. Courts in this District regularly order immediate release or bond hearings in materially similar cases. *Rios Porras*, slip op. at 5; *Ndiaye*, 2025 WL 3229307, at \*4.

## **VIII. CLAIMS FOR RELIEF**

### **FIRST CLAIM FOR RELIEF**

#### **Violation of the Immigration and Nationality Act Unlawful Detention and Denial of Bond Hearing 8 U.S.C. §§ 1225(b), 1226(a)**

65. Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

66. The mandatory detention provision at 8 U.S.C. § 1225(b) applies only to noncitizens who are seeking admission and who have not been admitted or paroled. It does not apply once the Department of Homeland Security (“DHS”) has affirmatively exercised its discretionary authority to parole a noncitizen into the United States pursuant to INA § 212(d)(5), 8 U.S.C. § 1182(d)(5).

67. Petitioner was apprehended by DHS in April 2022 and thereafter affirmatively paroled into the United States pursuant to INA § 212(d)(5). Regardless of the manner of entry, DHS's discretionary decision to grant humanitarian parole terminated any detention authority under § 1225(b) as a matter of law. See *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at \*6–7 (E.D. Pa. Nov. 14, 2025).

68. Although Petitioner's parole later expired, expiration of parole does not retroactively negate DHS's prior discretionary parole decision or revive mandatory detention authority under § 1225(b). Once DHS paroles a noncitizen into the United States, any subsequent detention authority—if it exists at all—arises under 8 U.S.C. § 1226(a) and requires an individualized bond hearing. *Rios Porras*, slip op. at 4–5; *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at \*2–3 (E.D. Pa. Nov. 18, 2025).

69. Nonetheless, Respondents have detained Petitioner without providing a bond hearing and without identifying any lawful statutory basis for detention. Respondents' application of § 1225(b) to Petitioner is contrary to the plain language of the INA and violates 8 U.S.C. § 1226(a).

## **SECOND CLAIM FOR RELIEF**

**Violation of the Immigration and Nationality Act**  
**Alternative Claim Under *Maldonado Bautista***  
**8 U.S.C. § 1226(a)**

70. Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

71. In the alternative, even if this Court were to conclude that Respondents are detaining Petitioner under 8 U.S.C. § 1225(b)—which they may not—Petitioner’s continued detention without a bond hearing is unlawful under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.).

72. In *Maldonado Bautista*, the district court granted partial summary judgment holding that similarly situated noncitizens are detained under § 1226(a) and may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025).

73. The court subsequently certified a nationwide Bond Eligible Class and extended declaratory relief to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025).

74. On December 18, 2025, the court entered final judgment after finding that immigration courts and DHS were continuing to deny bond hearings and

disregard the court’s declaratory relief. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 8–11 (C.D. Cal. Dec. 18, 2025). The court expressly recognized that such noncompliance created exigent circumstances and ongoing irreparable harm to detained noncitizens.

75. The declaratory judgment in *Maldonado Bautista*—now reduced to final judgment—has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Respondents’ continued detention of Petitioner without a bond hearing therefore violates the INA.

### **THIRD CLAIM FOR RELIEF**

#### **Violation of the Administrative Procedure Act Arbitrary, Capricious, and Contrary to Law Agency Action 5 U.S.C. § 706(2)**

76. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

77. The Administrative Procedure Act (“APA”) requires courts to hold unlawful and set aside agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

78. Respondents’ detention of Petitioner under § 1225(b), despite DHS’s prior grant of humanitarian parole and binding federal court decisions holding such detention unlawful, is contrary to the INA and reflects an unexplained and unjustified departure from settled law and practice. See *Rios Porras*, slip op. at 3–5; *Demirel*, 2025 WL 3218243, at \*5.

79. Respondents have failed to articulate a reasoned explanation for treating Petitioner as subject to mandatory detention, have relied on factors Congress did not intend them to consider, and have disregarded binding judicial authority. Their actions are therefore arbitrary, capricious, and not in accordance with law in violation of the APA.

#### **FOURTH CLAIM FOR RELIEF**

##### **Violation of the Fifth Amendment Due Process Clause Procedural and Substantive Due Process**

80. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

81. The Fifth Amendment's Due Process Clause protects all "persons" within the United States from deprivation of liberty without due process of law. U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

82. Procedural due process requires, at minimum, notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Petitioner was detained without notice, without a hearing, and without any individualized determination, rendering his detention procedurally unconstitutional.

83. Substantive due process further requires that civil immigration detention bear a reasonable relation to a legitimate governmental purpose and may not be

arbitrary or punitive. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

84. Petitioner poses no flight risk and no danger to the community. DHS paroled him into the United States, permitted him to reside in the community for years, and detained him only after he complied with ICE reporting requirements. Detention imposed without statutory authorization and without any individualized justification violates substantive due process. *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005).

### **IX. PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Grant the Petition for Writ of Habeas Corpus;
- 2) Order Petitioner's immediate release from ICE custody;
- 3) In the alternative, hold a bond hearing at which the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;
- 4) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

5) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: December 25, 2025

VASSOR LAW, LLC.

/s/ Dean Vassor  
Dean Vassor, Esq.  
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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF**  
**PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys, and I have discussed the claims with Petitioner's legal team. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Dated: December 25, 2025

VASSOR LAW, LLC.

/s/ Dean Vassor

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